ISSUE DATE:

April 07, 2009

PL070695

Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant:	Jeff Dubois
Subject:	Proposed Official Plan Amendment No. 2
Municipality:	Township of Central Frontenac
OMB Case No.:	PL070695
OMB File No.:	O070146

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant:	Jeff Dubois
Subject:	By-law No. 2007-244
Municipality:	Township of Central Frontenac
OMB Case No.:	PL070695
OMB File No.:	R070204

A P P E A R A N C E S :

Parties	**Counsel**
Township of Central Frontenac	Tim Wilkin
Jeff Dubois	
Cathy MacMunn	
Glen Tunnock	

MEMORANDUM OF ORAL DECISION DELIVERED BY J. V. ZUIDEMA ON SEPTEMBER 29, 2008 AND ORDER OF THE BOARD

At the outset, the Board was advised that the Parties had reached a settlement on the only remaining issue before the Board, namely the appeal by Mr. Dubois of the Township's Zoning By-law Amendment. On September 18, 2008, Mr. Dubois had withdrawn his appeal of OPA 2 and the Board by correspondence dated September 26, 2008 advised the Parties accordingly.

The Board had before it the Affidavit of Mr. Glen Tunnock along with executed Minutes of Settlement between the Parties. The Board heard from Mr. Tunnock who is a qualified land-use planner. He opined that the proposed amended by-law conformed to the Township's Official Plan and was consistent with the 2005 Provincial Policy Statement. Specifically, the proposed amended by-law was consistent with the practice of the municipality concerning the protection of the shoreline area of Garrison Lake and further that the proposed amended by-law respected the natural heritage features of the area. Although not identified as a Provincially Significant Wetland, or an Area of Natural or Scientific Interest, or an environmentally Sensitive Area, a wetland area was being protected through the proposed by-law.

Mr. Tunnock opined that the proposed amended by-law represented good land-use planning.

The Board accepts Mr. Tunnock's opinions. They were presented on consent and were not refuted. The Board relies on Mr. Tunnock's evidence as a basis for its decision to allow the appeal in part and approve the proposed amended zoning by-law which is attached as Attachment "1".

THEREFORE THE BOARD ORDERS that the appeal against By-law 2007-244 of the Township of Central Frontenac is allowed in part and By-law 2002-120 as amended, is amended as set out in Attachment "1" to this Order. In all other respects, the Board orders that the appeal is dismissed.

On consent of the Parties, there will be no Order for costs.

"J. V. Zuidema"

J. V. ZUIDEMA
VICE CHAIR

THE CORPORATION OF THE TOWNSHIP OF CENTRAL FRONTENAC
By-law No._____

BEING A BY-LAW TO AMEND BY-LAW NO. 2002-120 AS AMENDED

WHEREAS pursuant to the provisions of the Planning Act, RSO 1990, Sections 34 and 36, the Council of a Municipality may enact by-laws regulating the use of lands and the erection of buildings and structures thereon,

AND WHEREAS Section 36 of the Planning Act enables municipalities to enact holding by-laws;

AND WHEREAS By-law No. 2001-120 regulates the use of land and the use and erection of buildings and structures within the Township of Central Frontenac;

AND WHEREAS the Council of the Corporation of the Township of Central Frontenac deems it advisable to amend By-law No. 2001-120 as hereinafter set forth;

NOW THEREFORE, the Council of the Corporation of the Township of Central Frontenac enacts as follows:

1. That Schedule 'A2' to By-law No. 2002-120 is amended by changing the zoning of certain lands legally described as Part of Lots 17 and 18, Concession 7 and part of Lot 17, Concession 8, geographic township of Kennebec, now in the Township of Central Frontenac shown on Schedule "A" from Rural (R) Zone to Waterfront Residential Special Exception Seventeen Holding (RW-X17-h) Zone.

2. That Schedule 'A2' to By-law No. 2002-120 is amended by changing the zoning of certain lands described as Part of Lot 17, Concession 7, geographic township of Kennebec, now in the Township of Central Frontenac shown on Schedule 'A' to this By-law from Rural (R) Zone to Environmental Protection (EP) Zone.

3. That By-law No. 2002-120 is amended to effect such zoning by adding the following to **Section 5.6.4 (q)**:

   "5.6.4 (q)

   Waterfront Special Exception Seventeen Holding (RW –X17-h) Zone, Part of Lots 17 and 18, Concession 7 and Part of Lot 17, Concession 8, Kennebec

Despite the provisions of Section 5.6.1, 5.6.2 and 5.6.3, and subject to the holding provisions of this By-law, on lands zoned as RW-X13-h, the following provisions shall apply:

A) Permitted Uses

- **Dwelling, Seasonal**
- **Dwelling, Single detached**
- **Mobile Home**
- **Park**
- **Private campsite**
- **Recreational Vehicle**
- **Accessory uses including a gazebo, utility or storage shed, detached garage**

Prohibited Uses

- **Boat House**
- **Sauna or steam bath**
- **Garden Suite**
- **Commercial Use**
- **Sleep Cabin**
- **Swimming pool**

No development shall be permitted on any lands outside of a prescribed Development Cluster except where a road or utility corridor is required to access development within a Development Cluster. Lands outside a Development Cluster not used for a road or utility corridor shall be utilized for parks or open space purposes only.

B) Definitions

Development Cluster shall mean an area of land shown on a zoning By-law schedule within which a mix of recreational and residential uses are permitted up to a specified maximum density.

Private Campsite shall mean an area of land providing short term accommodation for tents where no fee is paid or charged and where the use is limited to the owner, members of his/her household, extended family or friends.

Recreational/Residential Unit or Unit shall mean a parcel of land which is legally described for private ownership and private occupancy by either a seasonal dwelling or a single detached dwelling or a mobile home or a recreational vehicle or a private campsite as defined in this By-law.

C) Zone Requirements – Density

The maximum number of recreational/residential units and the maximum density of Units within a prescribed Development Cluster shall be as set out in Table 1. The boundary of a development cluster shall be as set out on Schedule 'A' to this By-law. The total or overall number of recreational/residential units in the RW-X13 Zone shall not exceed 53. A single recreational based use shall mean a maximum of one recreational vehicle on a Unit.

Table 1 - Development Cluster Standards Cluster #	Maximum No. Recreational/Residential Units	Maximum Density
1	10	0.4 ha (0.98 ac.)/ unit
2	9	0.7 ha (1.7 ac.)/unit
3	17	0.4 ha (0.98 ac.)/unit
4	17	0.58 ha (1.4 ac.)/unit

D) Zone Requirements – Setback and Separation Distances, Zone Standards

The Minimum Zone Requirements in the Waterfront Residential Special Exception Seventeen Holding (RW-X17-h) Zone shall be as set out in Table 2 – Zone Requirements. Permitted exceptions to the minimum standards are set out in Table 2 for Unit #s as indicated. Where cells are left blank, the zone standard shall be as set out in the heading to the column. Exceptions to the Zone Requirements shall apply to existing development as of the effective date of this By-law.

All figures in Table 2 are set out in metric units except when indicated as a %tage (e.g. ha is for hectare and 'm' is for metre).

Table 2 – Zone Requirements – Waterfront Residential Special Exception Seventeen Holding (RW-X17-h) Zone														
Unit	Min. Unit Area (ha) (0.223)	Min. Front or Rear Yard on Water (20 m)	Min. Front or rear Yard for Back Lot (R-7 m) (F-6 m)	Min. Interior Side Yard (3 m)	Min. Exterior Side Yard (6 m)	Min. Setback from a Private Road (6 m)	Min. Setback of accessory building or structure from Shoreline (15 m)	Min. Rear or Interior Side yard for Accessory Building or Structure (1 m)	Max. Height of Main Building (10 m)	Max. Height of Accessory Building (1 storey)	Max. Lot Coverage (14%)	Max. No. Dwellings per Unit (1)	Max. No. RVs per Unit (2 existing or 1 on a vacant Lot	Min. Sep Distance between a Main Building and an Accessory Building (3 m)
1	0.197	n/a			n/a		n/a							
2	0.254	n/a	R-6.2 F-6.8		n/a		n/a							2.3
3	0.211	n/a			n/a		n/a						1 RV	
4	0.155	n/a	R-6.1		n/a		n/a							
5	0.175	n/a			n/a		n/a	0.3					1 RV	See Note 4
6	0.422	n/a	R-3.7		n/a		n/a	See Note 5						
7	0.220	n/a			n/a		n/a							
8	0.219	n/a			n/a		n/a							
9	0.103													
10	0.125		R-4			4	0.8	0.5						
11	0.241		R-6.2		n/a									
12	0.230						9							1.7
13	0.171													
14	0.108	n/a					n/a	See Note 1					1 RV	2.3
15	0.148	n/a			n/a		n/a							
16	0.225	n/a			n/a		n/a	0.8						
17	0.160	n/a			n/a		n/a						1 RV	
18	0.132	n/a	F-2		n/a	2	n/a							
19	0.205	n/a			n/a		n/a							
20	0.206	n/a			n/a		n/a						1 RV	

Table 2 – Zone Requirements – Waterfront Residential Special Exception Seventeen Holding (RW-X17-h) Zone														
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21	0.092	n/a			n/a		n/a							
22	0.153	n/a	F-1.8		n/a	1.8	n/a							
23	0.114	n/a					n/a	0.1						
24	0.098	n/a	F-5.5		n/a	5.5	n/a	See Note 2					1 RV	
25	0.131	n/a	F-3.2			3.2	n/a							
26	0.152	n/a	R-5.9		n/a		n/a						1 RV + add.	0.06
27	0.232	n/a	R-6.8		n/a		n/a	0.2 shed 0.9 privy						
28	0.117	n/a			n/a		n/a						1 RV	
29	0.152	n/a			n/a		n/a							
30	0.185	n/a			4.7	4.7	n/a							
31	0.166	n/a			n/a		n/a							
32	0.121	n/a			5.2	5.2	n/a						1 RV	
33	0.110	n/a					n/a							
34	0.100	n/a			n/a		n/a	1 fr. Shed over line						
35	0.186	n/a	5.2		n/a	5.2	n/a	2 fr. Sheds over line						
36	0.188	n/a			n/a		n/a							2

Table 2 – Zone Requirements – Waterfront Residential Special Exception Seventeen Holding (RW-X17-h) Zone														
Unit	Min. Unit Area (ha) (0.223)	Min. Front or Rear Yard on Water (20 m)	Min. Front or rear Yard for Back Lot (R-7 m) (F-6 m)	Min. Interior Side Yard (3 m)	Min. Exterior Side Yard (6 m)	Min. Setback from a Private Road (6 m)	Min. Setback of accessory building or structure from Shoreline (15 m)	Min. Rear or Interior Side yard for Accessory Building or Structure (1 m)	Max. Height of Main Building (10 m)	Max. Height of Accessory Building (1 storey)	Max. Lot Coverage (14%)	Max. No. Dwellings per Unit (1)	Max. No. RVs per Unit (2 existing or 1 on a vacant Lot	Min. Sep Distance between a Main Building and an Accessory Building (3 m)
37	0.188													
38	0.209													
39	0.228		R-4		n/a	4								
40	0.139	F-1.5	R-1.5		n/a	1.5	12							
41	0.135	F-18	R-3.8		n/a	3.8							2 RVs	
42	0.134				n/a		14						See Note 6	
43	0.190		4.3		n/a	4.3							2 RVs	
44	0.208													
45	0.107		F-3		n/a	3							2 RVs	
46	0.107													
47	0.129	F-15			n/a									
48	0.124	F-7			n/a		6							
49	0.143				n/a								1 RV	
50	0.149	F-15			n/a		12.5	0.4						
51	0.208				n/a								1 RV	See Note 3
52	0.224		R-5.9		n/a	5.9								
53	0.111	n/a	R-2.4		n/a		n/a	Fr. Shed over line						
Notes: 1. Trailer 0.7 m, Frame Shed over Line. 2. 2 frame sheds & Trailer over line – Green House 0.5 m. 3. 2m old privy to house. 4. 1.5 m trailer to shed. 5. Privy not on property. 6. 2 RVs and additions.														

E) Zone Standards – Additional Provisions

I. Docks: Section 5.6.3 (i) shall apply to the construction of any docks. A maximum of one dock shall be permitted for any Recreational/Residential Unit having direct shoreline frontage. Where a Unit shares a communal dock, an additional dock for the Unit shall not be permitted

II. Recreational Vehicles: a maximum of one (1) recreational vehicle may be stored on a Recreational/Residential Unit where the main use of the Unit is a seasonal dwelling or a single detached dwelling.

III. Natural Vegetation and Vegetation Buffer: The provisions of Section 4.22 shall apply to a natural vegetation buffer.

IV. Parking: Sections 4.26 and 4.27 of By-law 2002-102 shall apply with respect to parking standards.

4. Holding Provisions

A) Water and Sewage Systems

No development or redevelopment shall be permitted and no holding symbol shall be removed for a Recreational/Residential Unit or on a Development Cluster on lands zoned as Waterfront Residential Special Exception Seventeen Holding (RW-X17-h) unless the Unit or Development Cluster can be serviced by an approved sewage and water system as per the requirements of the Building Code Act or the Ontario Water Resources Act and other related legislation such as the Safe Drinking Water Act and the Clean Water Act, whichever has application.

B) Construction of Bui ldings and Accessory Uses, Buildings and Structures

No development or redevelopment shall be permitted and no holding symbol shall be removed for a Recreational/Residential Unit or on a Development Cluster on lands zoned Waterfront Residential Special Exception Seventeen Holding (RW-X17-h) except in compliance with Table 2 – Zone Requirements.

C) Despite the holding provision, development or redevelopment may be permitted for a minor extension to an existing seasonal dwelling or single detached dwelling for a deck, attached garage or carport, storage area or other extension, or an accessory building or structure which does not create the demand for sewage disposal or water supply. These uses may be permitted without lifting the holding symbol are subject to site plan control per Section '7' of this By-law.

5. That the zone boundaries of the **Waterfront Residential Special Exception Seventeen Holding (RW-X17-h) Zone and the four Development Clusters** are shown on Schedule 'A' which zone boundaries and map are hereby declared to form part of this By-law.

6. That the Zone Boundaries of the **Environmental Protection (EP) Zone** are shown on Schedule 'A' which zone boundaries and map are declared to form part of this By-law.

7. That all development is subject to site plan control.

8. That all other provisions of By-law 2002-120 shall continue to apply.

Read a first and second time this __th day of _____, 2008.

Read a third time and adopted this __th day of _____, 2008

_____

Mayor

_____

Clerk